

REMARKS

Interview Summary

Applicants note that in an interview with Examiner Parkin of the USPTO on July 6, 2006, we confirmed that the claims assigned to Groups III and V were incorrect due to typographical errors. Originally Group III contained claims 18 and 20-28, which should be claims 18 and 21-28 and Group V contained claim 35, which should be claim 36.

Traverse of Restriction Requirement

The Office Action requires that Applicants elect one Group from Groups I-V. Applicants respectfully request reconsideration of the Restriction Requirement in view of the following remarks concerning the election made herein.

Restriction between inventions is only proper when a search burden exists for the Examiner to search all the inventions claimed. If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. See MPEP §803.01.

In the instant case, Groups I, II, III, IV, and V are all drawn to products and methods of use relating to peptides and modified peptides. For instance, Group I is drawn to peptides and modified peptides and Group II is drawn to blood-component conjugates based on the peptides of Group I, therefore all both products are inexorably linked by structure and function. Therefore, it does not constitute a search burden to search for peptides and conjugates comprising said peptides, as searching for one will lead to the other (MPEP §803.04). Furthermore, Groups III and IV are methods of using the peptides of Group I, therefore a search of the peptides of Group I would lead to the methods of use of Groups III and IV, and *vice versa*. Finally, Group V is drawn to a method of generation of peptides having anti-viral, virostatic, or anti-fusogenic activity which is a method of making the peptides of Group I. Therefore, it does not constitute a search burden to search for a the peptide and either method of use, as searching for the product would lead to its methods of use. See MPEP §803.04.

In addition, Groups II and IV share the same class and subclass (424/196.11). Groups I, II, and IV share the same class and subclass (530/324). Groups I, II, III, and IV share the same class (424). Therefore, it is evident from the overlapping subject matter and class/subclass that a search of Groups I, II, III, and IV does not constitute a serious search burden for the Examiner.

In the event that the Examiner does not withdraw the restriction requirement, Applicants, alternatively, respectfully request that the restriction requirement be modified so that Groups I, II, III, and IV be rejoined and that the restriction between Groups I-IV and V be maintained. Applicants respectfully submit that the peptides of Group I are used to make the peptide-blood component conjugates of Group II, therefore search for the peptides will lead to both the peptides and the peptide-blood component conjugates, and *vice versa*. Further, Group IV is a method of making the conjugates of Group II using the peptides of Group I, therefore no serious search burden exists to search for the peptides, conjugates, and method of manufacture as they all share the common element of the peptides of Group I. Finally, Group III is a method of using the peptides of Group I, which are linked to the conjugates of Group II which are made by the method of Group IV, therefore the search for the peptides will lead to both methods and the peptide-blood component conjugates.

Finally, in the event that the Examiner does not withdraw the restriction requirement. Applicants, alternatively, respectfully request that the restriction requirement be modified where Groups I and II be rejoined and that the restriction between Groups I-II and III-V be maintained. Applicants respectfully submit that the peptides of Group I are used to make the peptide-blood component conjugates of Group II, therefore search for the peptides will lead to both the peptides and the peptide-blood component conjugates, and *vice versa*.

Applicants respectfully request that the Restriction Requirement be withdrawn and that all claims be prosecuted in the same patent application. In the event that the requirement is made final and in order to comply with 37 C.F.R. § 1.143. Applicants reaffirm the election with **traverse** of Group I (claims 1, 4-15, and 35), holding claims 16-18, 21-34, and 36 in abeyance under the provisions of 37 C.F.R. § 1.142(b) until final disposition of the elected claims.

CONCLUSION


Applicants maintain that the restriction requirement is improper and that all pending claims, *i.e.*, claims 1, 4-18, and 21-36, should be examined for patentability. If the Examiner believes that prosecution might be advanced by discussing the application with Applicants' representatives, in person or over the telephone, we would welcome the opportunity to do so.

Respectfully submitted,

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